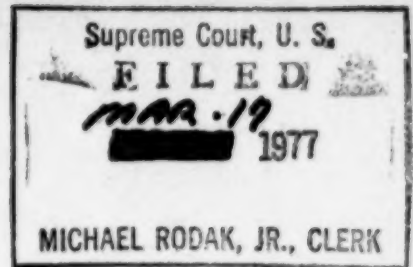


76-1414



**In the
Supreme Court of the United States**

**FRANCES F. SHAND
PETITIONER**

v.

NATIONAL LABOR RELATIONS BOARD

**PETITION FOR WRIT OF CERTIORARI
TO REVIEW THE ORDER OF
THE UNITED STATES COURT OF APPEALS,
DISTRICT OF COLUMBIA CIRCUIT.**

**FRANCES F. SHAND
3531 Freeman Road
Walnut Creek, California 94595**

Supreme Court of the United States

PETITION FOR WRIT OF CERTIORARI TO REVIEW THE ORDER OF THE UNITED STATES COURT OF APPEALS, DISTRICT OF COLUMBIA

I, Frances F. Shand, present to the United States Supreme Court this citizen's petition. I am not aware of any official or unofficial reports of opinions delivered in the U. S. Court of Appeals, District of Columbia Circuit Case No. 76-1737. All I received from the Court was their order dismissing my petition for review of the decision of the National Labor Relations Board. The issue — Denial of Due Process at an arbitration in July of 1975. The date of the Appeals Court order to dismiss is December 28, 1976, and is document No. 1 in the accompanying volume of documents. A copy of the order is also appended. No time of entry is noted and no explanation given.

Denial of due process is unconstitutional, and therefore I invoke the jurisdiction of the Supreme Court.

Because my petition was dismissed, I will briefly review my contact with the Appeals Court. The documents will be referred to by the letter (D) with an accompanying number. I will then state the questions for review.

My petition to the Appeals Court is dated July 20, 1976, with attached decisions of the NLRB (D-2, 3, 4). By letter dated the 15th and 16th of September, 1976, I informed the NLRB of the information I felt should constitute the record on review. Copies of my letters were sent to the Court (D-5, 6). I received no response from the Board, and their only contact with me was the sending of a copy of their motion to dismiss my petition (D-7).

Upset over the Board's motion, I immediately sent a

letter of opposition to the Court. It was returned because of improper form, and I submitted my motion dated October 7, 1976 (D-8), with attached relevant correspondence.

Board's letters to Me;

Mr. Robert E. Allen 9/16/75 (D- 9)
 Mr. Robert E. Allen 9/30/75 (D-10)
 Mr. Michael A. Taylor 12/22/75 (D-11)
 Mr. Robert E. Allen 1/26/76 (D-12)

My letters to the Board:

Mr. John C. Miller 12/26/75 (D-13)
 Mr. Robert E. Allen 10/ 6/75 (D-14)
 Mr. Robert E. Allen 9/21/75 (D-15)
 Mrs. Betty S. Murphy 9/13/75 (D-16)

On October 19, 1976, I sent a letter to the Court pertaining to my opposing motion and regarding an affidavit taken by a field representative of the NLRB which I refused to sign. I was denied an accurate and legible copy of the affidavit for my review and signature from both the Washington and San Francisco offices of the NLRB. By request under the Freedom of Information Act, I finally received a copy of the notes. My letter of October 19, 1976, the affidavit notes and two letters regarding the affidavit are (D-17, 18, 19, 20). Court Clerk, Mr. George Fisher's response to my letter is dated November 8, 1976 (D-21). He states in part: "Because of the informal nature of these documents which you have submitted without a motion for leave to file same, they have been lodged in the Clerk's office and a decision will be made as to whether they should be filed and entered on the docket." I heard nothing more about my letter and documents and must assume they were never filed, placed on the docket or reviewed by the Court. I pray the Supreme Court will do so.

When I requested a copy of the transcript of my ar-

bitration under the Freedom of Information Act (D-22), Mr. Michael Taylor, Acting Regional Director, San Francisco, responded, and I quote in part: "A search of the file in the above-captioned case has been made. *There is no transcript of your arbitration in that file.*" "The undersigned is responsible for the determination that the records you have requested *do not exist*" (D-11). On Appeal to the NLRB in Washington, Mr. Robert Allen states in part (D-12): "*There is no transcript of your arbitration proceedings in our files.*" "The records you have requested are privileged from disclosure under the FOIA." Did the Board have a legal right to render a decision to my charge of denial of due process without a transcript? Mr. Robert Allen in his letter of November 10, 1975 (D-4), denying my appeal, states in his last sentence: "*After reviewing the entire file we conclude that further proceedings would be unwarranted.*" In that same letter, "There is no indication that the Union was unreasonable or arbitrary in not submitting all the documents you wanted introduced before the arbitrator." Two letters, two meaningless envelopes and a tape which I requested the arbitrator accept were accepted as exhibits at my arbitration. The tape was played and accepted. You will note (D-23) that the tape is not listed in the Index of Exhibits and there is no date after Union Exhibit No. 4. I sent three letters to Mr. Bell; which one was introduced? Without all my documents entered in my defense, the tape and the case could not be fairly judged.

Does the Supreme Court agree with the findings of the NLRB (D-3, 4)? I quote in part: "However, the Board has held that while a union has the statutory duty to represent employees fairly, it has also held that negligence by a union in processing an allegedly meritorious grievance is not a violation of the Act; poor

quality representation is insufficient to support a claim of unfair representation. Therefore, even assuming that the union was negligent in the presentation of your grievance, there is no basis for finding that the union violated the Act." If this is the case, by staying away I could have avoided the nightmare of that arbitration. I had to file charges to get my case to arbitration (D-24, 25) and then charges for the denial of due process (D-26). I have sacrificed much in fighting injustice, even the loss of my job after almost nine years of dedicated service.

In their motion to dismiss my petition for review (D-7), the Board cites an impressive list of precedents. I do not believe they represent an analogous situation. Were there individuals filing charges for denial of due process at arbitrations? Did the NLRB render decisions without transcripts? The answer is NO. In my opposing motion (D-8) I refer to the Senate hearings of 1968 on Separation of Powers. Senator Griffin states: "Something must be done and soon. The NLRB story is a chilling case history of what can happen when a federal agency arrogantly thwarts the law."

This petition represents the ultimate in effort that I can make as a citizen after a long, long struggle, and I sincerely request you grant my petition.

Frances F. Shand

Frances F. Shand

3531 Freeman Road
Walnut Creek, California 94595

Date

April 9, 1977

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA

No. 76-1737

Frances F. Shand
Petitioner

v.

National Labor Relations Board
Respondent

September Term 1976
FILED DEC. 28, 1976

George A. Fisher
Clerk

Before: Wright and McGowan, Circuit Judges

ORDER

On consideration of respondent's motion to dismiss and of petitioner's opposition thereto, it is

ORDERED by the Court that respondent's afore-said motion is granted and the petition for review herein is dismissed.

Per Curiam